

**REMARKS**

Claims 1-17 were originally submitted.

Claims 1-17 are rejected under the nonstatutory judicially created doctrine of double patenting over claims 1-8 of U.S. Patent 6,675,215.

Claims 1-17 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,490,209 to Kennedy et al (Kennedy).

Claims 1-17 remain in this application.

**Double Patenting**

Claims 1-17 are rejected under the nonstatutory judicially created doctrine of double patenting over claims 1-8 of U.S. Patent 6,675,215 to Cedola (Cedola). The Office presents that a timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be filed to overcome the rejection and that a registered attorney or agent of record may sign such a terminal disclaimer. A signed terminal disclaimer is submitted with this response.

**35 U.S.C. §102**

Claims 1-17 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,490,209 to Kennedy et al (Kennedy).

Applicant respectfully traverses the rejection of the claims.

**Independent claim 1** recites in part "computer-executable instructions to listen at a first baud rate for a predefined message sent from the client computing device; and computer-executable instructions to listen at a second baud rate for the

1 predefined message in an event that the predefined message is not received at the  
2 first baud rate".

3 Kennedy fails to disclose or teach the operating system of claim 1.  
4 Kennedy describes an autobaud detection mechanism that starts at a default baud  
5 rate and steps through lower baud rates in searching for a baud rate in which a  
6 remote device is transmitting. An incoming call initiates the process described in  
7 Kennedy. The incoming call may be any message and is not known by the  
8 receiving device. When the incoming call is received, respective data bits of the  
9 received data are examined for transmission errors. If a transmission error is  
10 detected, the baud rate is stepped to the next lowest baud rate. (See Abstract of  
11 Kennedy).

12 When the incoming call is received, the respective bits of the received data  
13 which may be a potentially valid character or message, are stored and the received  
14 data pattern is analyzed for the presence of transmission errors such as framing,  
15 parity, and overrun. (See col. 2, lines 26-31 of Kennedy).

16 If a transmission error is detected, it is inferred that what has been received  
17 is not a valid character at the current (i.e., initial default) baud rate setting. The  
18 baud rate is then incremented (decremented) to step to the next lowest baud rate.  
19 (See col. 2, lines 31-34 of Kennedy).

20 If no transmission error has been detected, it is assumed that the received  
21 message is a potentially valid character at the present baud rate setting. The stored  
22 bit compositions (specifically, a bit composition that represents a reference  
23 character if such a reference character was transmitted as part of the received  
24 message) from the received message are compared with a prescribed reference  
25 character described in Kennedy as a "carriage return". If the serial composition of

1 the two compared data bit patterns match, an inference is made that the remote site  
2 is transmitting at the current baud rate setting and the receiving device locks the  
3 baud rate at the particular baud rate setting for the remainder of the call. (See col.  
4 2, lines 36-44 of Kennedy).

5 When the autobaud detection routine (i.e., process) has stepped to a new  
6 baud entry, the routine initiates a prescribed time-out. Within the time out period,  
7 if the receiving device does not receive a further bit pattern, the receiving device  
8 reverts to the default baud rate setting and reinitiates the autobaud detection  
9 routine. (See col. 2, lines 52-60 of Kennedy).

10 Claim 1 recites "listen at first baud rate for a predefined message from the  
11 client computing device". The Office presents that Kennedy teaches this element,  
12 particularly citing the Abstract and col. 2, lines 26-50 of Kennedy. Kennedy  
13 describes that the receiving device receives or listens for any incoming call and not  
14 a predefined message which is known at the receiving device. The incoming call  
15 may be any message, because Kennedy relies on examining the received message  
16 for transmission errors and if a transmission error is detected, the baud rate setting  
17 is adjusted. Although Kennedy describes the use of a reference character such as a  
18 carriage return, the reference character of Kennedy differs in function from the  
19 recited "predefined message" of claim 1. The reference character is a single  
20 character that may or may not be transmitted – a carriage return is chosen because  
21 it is a character that is expected to be transmitted. In theory such a reference  
22 character may never be transmitted and subsequently received by the receiving  
23 device. The receiving device in Kennedy does not specifically listen or look for  
24 the reference character.  
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1 Claim 1 further recites "to listen at a second baud rate for the predefined  
2 message in an event that the predefined message is not received at the first baud  
3 rate". The receiving device of Kennedy does not particularly listen for the  
4 reference character, but relies on transmission error examination in the autobaud  
5 detection process. Therefore, if the receiving device does not receive the reference  
6 character (i.e., a carriage return) the receiving device does not listen at a second  
7 baud rate for the reference character. Only if a transmission error is found in the  
8 received message does the receiving device step down to another baud rate.

9 Accordingly, Kennedy does not show every element of claim 1, and the  
10 rejection of claim 1 is therefore improper. Accordingly, Applicant respectfully  
11 requests that the §102 rejection of claim 1 be withdrawn.

12 Claims 2-6 are allowable based at the least on their dependency on claim 1.  
13 Accordingly, Applicants respectfully request that the §102 rejection of claims 2-6  
14 be withdrawn.

15 Furthermore, claim 2 recites in part "to listen at the first baud rate for a  
16 predetermined period". The Office argues that this is disclosed in col. 5, lines 1-34  
17 of Kennedy; however, the predetermined period described in Kennedy is not  
18 directed to the default or first baud rate, but to a new or second baud rate entry.  
19 Accordingly, Kennedy does not show this additional element recited by claim 2, and  
20 claim 2 is allowable for this additional reason.

21 Furthermore, claim 3 recites in part "to listen at the second baud rate for the  
22 predefined message in an event that error characters not forming part of the  
23 predefined message are received at the first baud rate". The Office argues that this  
24 is disclosed in col. 4, lines 19-67 of Kennedy; however, as discussed Kennedy  
25 describes performing a transmission error examination on any received message.

1 The transmission error examination is not directed to a particular predefined  
2 message. If a transmission error is found in the incoming message, the process  
3 steps down to the next or second baud rate; however, the receiving device at the  
4 second baud rate is not listening for a predefined message, but is receiving any  
5 incoming message. Accordingly, Kennedy does not show this additional element  
6 recited by claim 3, and claim 3 is allowable for this additional reason.

7 Furthermore, claim 4 recites in part "cache the second baud rate in an event  
8 that the predefined message is received at the second baud rate". The Office  
9 argues that this is disclosed in col. 2, lines 13-24 of Kennedy; however, Kennedy  
10 describes storing in a table a series of baud rates, including the default rate. The  
11 process described in Kennedy always begins at a default baud rate and steps  
12 through the baud rates in the table in looking for the transmission baud rate.  
13 Future message receptions always begin at the default baud rate. Kennedy  
14 describes that a baud rate is locked onto for the remainder of a particular call  
15 (message reception) if no transmission error is received; however, Kennedy does  
16 not describe caching the baud rate (See col. 2, lines 43-45 of Kennedy).  
17 Accordingly, Kennedy does not show this additional element recited by claim 4, and  
18 claim 4 is allowable for this additional reason.

19 Independent claim 7 recites in part "computer-executable instructions to  
20 listen at a first baud rate at which a predefined message might be sent from the  
21 client computing device over the serial connection; and computer-executable  
22 instructions to switch to listening at a second baud rate if one of the following  
23 events occurs: (1) characters not included in the predefined message are received,  
24 or (2) a predetermined timeout period expires without successful receipt of the  
25 predefined message".

1 As discussed above, Kennedy is directed to listen for any incoming call and  
2 not a predefined message which is known at the receiving device. Also as  
3 discussed above, Kennedy performs error checking on the received message not a  
4 predefined message, therefore switching to a second baud rate does not occur  
5 based on "(1) characters not included in the predefined message are received".  
6 Furthermore, as discussed above the time-out period described in Kennedy is  
7 directed to the second baud rate not the default or first baud rate.

8 Accordingly, Kennedy does not show every element of claim 7, and the  
9 rejection of claim 7 is therefore improper. Accordingly, Applicant respectfully  
10 requests that the §102 rejection of claim 7 be withdrawn.

11 Claims 8-9 are allowable based at the least on their dependency on claim 7.  
12 Accordingly, Applicants respectfully request that the §102 rejection of claims 8-9  
13 be withdrawn.

14 Claim 8 is additionally allowable for reasons similar to those presented above  
15 in support of claim 4.

16 Independent claim 10 recites in part "listening at a first of multiple baud  
17 rates for a predefined message to be sent by a client computing device over a serial  
18 connection to a host computer; in an event that characters not included as part of  
19 the message are received or the message is not detected within a predetermined  
20 time period, listening at a second of the baud rates for the message".

21 As discussed above, Kennedy does not teach or disclose listening at a first  
22 baud rate for a predefined message, and that the transmission error examination  
23 performed by Kennedy is performed on any received message. Furthermore the  
24 time period described in Kennedy is used for the second baud rate not the first (i.e.,  
25 default) baud rate.

1 Accordingly, Kennedy does not show every element of claim 10, and the  
2 rejection of claim 10 is therefore improper. Accordingly, Applicant respectfully  
3 requests that the §102 rejection of claim 10 be withdrawn.

4 Claims 11-13 are allowable based at the least on their dependency on claim  
5 10. Accordingly, Applicants respectfully request that the §102 rejection of claims  
6 11-13 be withdrawn.

7 Claim 12 is additionally allowable for reasons similar to those presented  
8 above in support of claim 4.

9 Independent claim 14 recites in part "listening to a serial connection at a  
10 baud rate for a predefined message from a client computing device; and  
11 automatically adjusting the baud rate in an event that the message is not detected".

12 As discussed above, Kennedy does not teach or disclose listening at a baud  
13 rate for a predefined message from a client computing device. Kennedy describes  
14 adjusting (changing) the baud rate in the event a transmission error is detected, not  
15 if the predefined message is not detected (e.g., error in the predefined message or a  
16 time out in which the message is not received).

17 Accordingly, Kennedy does not show every element of claim 14, and the  
18 rejection of claim 14 is therefore improper. Accordingly, Applicant respectfully  
19 requests that the §102 rejection of claim 14 be withdrawn.

20 Claims 15-16 are allowable based at the least on their dependency on claim  
21 14. Accordingly, Applicants respectfully request that the §102 rejection of claims  
22 15-16 be withdrawn.

23 Claim 16 is additionally allowable for reasons similar to those presented  
24 above in support of claim 4.  
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1       **Independent claim 17** recites in part "(c) listening at the selected baud rate  
2 for the predefined message; (d) in an event that the predefined message is not  
3 received, selecting another of the baud rates".

4       As discussed above, Kennedy does not teach or disclose listening at a  
5 selected baud rate for a predefined message. The receiving device described in  
6 Kennedy receives any incoming call or message, and performs transmission error  
7 examination which determines if another baud rate is needed. Furthermore, the  
8 reference character described in Kennedy may or may not be received – if the  
9 reference character is not received, the process described in Kennedy may or may  
10 not change to another baud rate. As discussed above, the reference character is  
11 only used when the process of Kennedy determines a potentially valid character  
12 transmission in the received message.

13       Accordingly, Kennedy does not show every element of claim 17, and the  
14 rejection of claim 17 is therefore improper. Accordingly, Applicant respectfully  
15 requests that the §102 rejection of claim 17 be withdrawn.  
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CONCLUSION

All pending claims 1-17 are in condition for allowance. Applicant respectfully requests reconsideration and prompt issuance of the subject application. If any issues remain that prevent issuance of this application, the Examiner is urged to contact the undersigned attorney before issuing a subsequent Action.

Respectfully Submitted,

Lee &amp; Hayes, PLLC

Dated: 10/13/04By: 

Emmanuel A. Rivera  
Reg. No. 45,760  
(509) 324-9256 ext. 245